

# Guidelines for schools on the use of photography

## Introduction

These guidelines have been produced to assist schools in forming their own policies and procedures regarding safe photography and video recording of school activities. Technology is making it increasingly easier for pictures and images to be used inappropriately as printed material or on the web. The Data Protection Act and Human Rights Act set out the rights and responsibilities in respect of keeping personal data on individuals. The principles of this Act are set out in Appendix 1, but in summary everyone has the right to know that information is held on them and the reason for holding that data. They also have the right to refuse permission for that data to be published. The term 'data' includes photographic images.

The Data Protection Act is unlikely to apply in many cases when photographs are taken in schools and other educational institutions. Fear of breaching the provisions of the Act should not be wrongly used to stop people taking photographs or videos which provide many with much pleasure. It is suggested that a common sense approach should be adopted when the Act does not apply.

Two areas are exempt from the Data Protection Act:

- ◆ **Journalism, literature and art** - Publication by any person of any journalistic, literary or artistic material is exempt and the Data Protection Act allows newspapers and broadcasters to publish photographs to publicise activities.
- ◆ **Research, history and statistics** – 'research purposes' includes statistical or historical purposes. Personal data processed only for research purposes may be kept indefinitely.

Article 8 of the Human Rights Act confers the right to private family life and correspondence. This also states that a public authority, such as a school, must not interfere with this right except in specific and limited circumstances. An image can interfere with this right, particularly if it is intrusive or displays something that the subject prefers to keep private.

## General

The term 'images' encompasses photographs - both digital and film - and video. If your establishment produces a publication, exhibition board, website or video for distribution and features an image of a recognisable individual, you need the permission of the individual in the picture. The Data Protection Act states you must take reasonable steps to get their permission. To get the permission of everyone in a large crowd would be unreasonable – this really applies to featured individuals. The easiest way to do this is to get the necessary permissions before the photograph is taken. You can give anyone who wishes to step 'out of frame' the opportunity to do so. We have included sample permission forms in this document.

It is important that those being asked for their consent understand what you intend to use the images for once they are taken. It must be made clear if the picture will be used to illustrate a general theme and so may appear in a variety of different publications, or if it is just to illustrate a specific event or pastime. Photographs of pupils taken for identity cards or passes would probably be stored electronically with other personal data and the terms of the Data Protection Act would apply.

## Schools

If your school does not seek the necessary permission from parents for pictures you may take then you leave yourselves vulnerable to prosecution under the Data Protection Act should the publication of any image by the school cause distress or offence. The responsibility under the Data Protection Act for seeking permissions and keeping accurate records lies with the school. Photos taken for official school use may be covered by the Data Protection Act and pupils and students should be advised why they are being taken. Photos taken purely for personal use are exempt. It may be worthwhile for the school to produce an information leaflet for parents/carers outlining the school's position (see attached example from Peterborough County Council)

### **Videotaping school productions / sports day**

Schools are free to develop and implement their own policies regarding the use of cameras and videos by parents at school events. There will be occasions during the school year when parents will wish to take photographs or make a video recording of their child/children taking part in a school activity. It is recommended that parents, friends or family members should be allowed to take photos or videos of their children taking part in sports day or school activities. These images are for personal use and therefore the Data Protection Act does not apply.

It may be worthwhile for schools to consider an addition to the school's admission form of a section for parents to sign to indicate that any images they take of school activities will not be used inappropriately. This would ensure that all parents are aware of their responsibilities in this matter. If this is not possible, schools could include a request slip in any letters inviting parents to school events, asking them to sign a returnable slip to indicate that any images taken will not be used inappropriately.

**Note:** when image capturing by parents is allowed, a warning should be given emphasising the danger of placing such images on personal websites.

However, there may be other parents who will not wish their children to be photographed or recorded at all. In order to avoid any conflict, the school may wish to state in advance whether the capturing of images is to be permitted at an event or activity and then parents can decide in advance whether they wish to allow their child to participate in light of the fact that photography or video recording will take place.

### **School trips**

The Data Protection Act cannot govern the use of images taken in public places, for example if photos of children are included in shots taken by other visitors on a school trip to a museum.

### **School publicity**

Schools are free to decide on their own policies relating to the use of such images or release of associated information for their own publicity purposes. However, it is recommended that a school should not display images of pupils or staff on websites, in publications, or in a public place, such as areas where visitors to the school have access, without gaining consent of the individual concerned or the parent/legal guardian. If a group of pupils or individual pupils are photographed for a school prospectus or general publicity to promote the school, it is suggested consent is secured. The same principle would apply to school notice boards if they are accessible to visitors.

## **Consent**

The best way to gain consent from parents to take photographs of their children is in a written letter, so that it is possible to lay out in clear terms what is being asked of the parents/carers and what will happen with the resulting images.

## **Storage**

Schools may retain copies of images, but they should let the person being photographed know whether or not the image will be kept for further use and ensure that the images are securely stored and used only by those authorised to do so. There is an expiry date of two-years on the use of images.

These guidelines relate **only** to images taken by or commissioned **by the school themselves for publication**. The school is **not** liable for images taken by parents or others at school events, as it is those who own and publish the images that are subject to the Data Protection Act.

For establishments, like schools, which need to take regular photographs of individuals we have produced a consent form (Appendix 2) that can be issued when a child starts school to cover all possible eventualities whilst the child is at the school. We have also designed a consent form (Appendix 3) for 'one-off' permissions for individual activities not covered by the general consent form. It is made clear to parents that if circumstances change and they no longer wish their child to be featured in photographs they need to inform the school.

## **Child protection**

This is a separate consideration and does not come under the Data Protection Act. When taking pictures of children for publication, it is important schools make sure the resulting images cannot be construed as being provocative in any way and they should ensure that the subjects are suitably dressed.

Many parents and schools are concerned at the potential for the misuse of photographs of children, particularly when the child's full name is attached. The attached consent forms seek permission for use of images and names by the school and separate permission for the school to allow images and names of the child/children to be given to the media, including class photos at the start of their school life. If a parent does not consent to the full name being used then first names only are to be used by the school. In fact it is generally advised that only the first name is used in publically available electronic or printed communications, for example press and magazine articles and websites.

## **The media**

Schools and parents do need to understand, however, that some newspapers will not use any photograph of a child that is only accompanied by a first name. The media are not subject to the Data Protection Act or these guidelines and the school cannot prohibit the media from taking pictures or using the names of any child. We advise you to try and work with your local media to balance positive promotion of school activities with the need to protect children. If parents do not sign the consent form their child cannot be included in any promotions of school activities, including through the media.

The Press Complaints Commission publishes a Code of Practice which includes guidance on the way in which children should be depicted in newspapers ([www.pcc.org.uk](http://www.pcc.org.uk))

Pupils should not be approached or photographed at school without the permission of the school authorities. With regard to images used by TV companies, the Office of Communications (Ofcom) programme code states that programme makers must have due regard to children's welfare at all times and that interviewing children requires that the consent of a parent or guardian, as well as the child, be sought beforehand. Schools or parents should contact Ofcom ([www.ofcom.org.uk](http://www.ofcom.org.uk)) if they have any concerns regarding the use of filmed images by TV companies.

**Please note that these are only guidelines. Schools are strongly advised to seek independent legal advice if they have concerns or specific enquiries.**

## **Data protection principles**

**Personal data shall be:**

1. **processed fairly and lawfully**
2. **obtained only for one or more specified and lawful purposes**
3. **adequate, relevant and not excessive in relation to the purpose for which they are processed**
4. **accurate and, when necessary, kept up-to-date**
5. **kept for no longer than is necessary for that purpose**
6. **processed in accordance with the rights of data subjects under this Act**
7. **held with the appropriate technical and organisational measures in place against unauthorised or unlawful processing, accidental loss or destruction of, or damage to, personal data.**

**Personal data shall not be:**

8. **transferred to a country or territory outside the European Economic Area unless that country or territory ensures an adequate level of protection for the rights and freedoms of data subjects in relation to the processing of personal data.**

# Appendix 1

## General consent form

Dear Parent/Guardian

During the school year, the school would like to take and use photographs and the names of your child/children to publicise and promote the school and its activities. These would include images of them taking part in school activities, such as school fêtes or fairs, musical events, school plays and nature trails, as well as class photos, school sports days, PE classes and cross country runs. Group photographs taken may also be stored in the school archives.

In accordance with the Data Protection Act, the consent of the parent or guardian must be obtained before any photographs or images can be published or stored. By signing this form you are giving your consent to the school to use images or photographs taken by the school, or an authorised agent of the school, to promote or publicise school activities and to store them in the school archives. These images or photographs may or may not be used by the local or national media. The school cannot, however, prohibit the media from taking pictures of any child involved in school activities.

You may withdraw your consent at any time in writing to the school. While certain images of your child or children, for example group photographs, or photographs retained for school archives, cannot always be deleted, we do assure you that all reasonable care will be taken to retain photographs and images only for the period of time that your child remains at the school. The exception is school/group photographs retained in the school archives.

The school is **only responsible for photographs taken by the school or an authorised agent of the school** and cannot be responsible for photographs taken by other third parties, such as parents. The media are not subject to the Data Protection Act or these guidelines and the school cannot prohibit the media from taking pictures or using the names of any child.

Please confirm your consent by putting your signature in the appropriate boxes overleaf and signing and returning this form to the school by **(insert date)**

**If you do not sign this consent form your child cannot be included in any promotion of school activities, including those issued to the media.**

<p><b>I CONSENT:</b> to the school's taking and publishing photographs and/or images of my child/children for the purpose of promoting or publicising school activities and events during my child/children's time at the school and for those photographs to be issued for use by the media.</p>	<p><b>Initial</b></p>
<p><b>I CONSENT:</b> to the school's using <b>the first name and surname</b> of my child/children in group photographs or photographs promoting school activities, including through the media.</p>	<p><b>Initial</b></p>
<p><b>or:</b> <b>I CONSENT ONLY:</b> to the school's using <b>the first name of</b> my child/children in group photographs or photographs promoting school activities, including through the media.</p>	<p><b>Initial</b></p>
<p><b>I CONSENT:</b> to the school's using photographs or images of my child/children on the school website and I understand that these images will available on the World Wide Web.</p>	<p><b>Initial</b></p>
<p><b>Parent/guardian's signature</b></p>	
<p><b>Date</b></p>	

**I understand that I can withdraw my consent at any time in writing.**

## Appendix 2

### Consent form for a particular activity

Dear Parent/Guardian,

To promote the school we wish to use photographs or images and names of your child/children taking part in (insert name of specific activity)

Before any photographs or images can be published, the consent of the parent or guardian must be obtained. By signing this form you are giving your consent to the school to use images or photographs taken by the school, or an authorised agent of the school, which will be used to promote or publicise school activities and/or to store them in the school archives. These images or photographs may or may not be used by the local or national media.

All photographs and images will be retained only for the period of time that your child remains at the school. The school is **responsible only for photographs taken by the school or an authorised agent of the school** and cannot be held responsible for photographs taken by other third parties, including parents. The media are not subject to the Data Protection Act or these guidelines and the school cannot prohibit the media from taking pictures or using the names of any child.

Please confirm your consent by putting your initials in the appropriate boxes and signing and returning this form to the school by **(insert date)**

**If you do not sign this consent form your child cannot be included in any promotion of this activity, including being issued to the media.**

<b>I CONSENT</b> to the school taking and publishing photographs and/or images of my child/children for the purpose of promoting or publicising this activity and for those photographs to be issued for use by the media	<b>Initial here</b>
<b>I CONSENT</b> to the school using the first name and surname of my child/children in group photographs or photographs promoting this activity, including through the media.	<b>Initial here</b>
<b>I CONSENT</b> to the school using photographs or images of my child/children on the school website and I understand that these images will be available on the World Wide Web.	<b>Initial here</b>
<b>Parent/Guardian's signature</b>	
<b>Date</b>	